

**Benton County
WATER CONSERVANCY BOARD**

BENT-06-01

Record of Decision

Applicant: Wiser Farms Application Number: CG4-23101C@1

This record of decision was made at an open public meeting of the Benton County Water Conservancy Board held on October 12, 2006, with any changes to ROE/ROD based on information received from the applicant and WADOE staff.

(X) Approval:

The Benton County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination and submits this record of decision and report of examination to the Department of Ecology for final review or consideration.

() Denial:

The Benton County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination and submits this record of decision to the Department of Ecology for final review or consideration.

Signed:

Signed *Darryll Olsen* Date: 10/12/2006
Darryll Olsen, Ph.D., Chairman
Benton County Water Conservancy Board

Approves
Denies
Recuse
Abstains
Excused Absence

Signed *John Jaksch* Date: 10/12/2006
John Jaksch, Ph.D., Vice Chairman
Benton County Water Conservancy Board

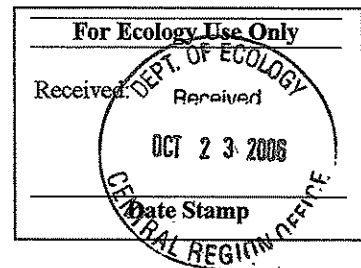
Approves
Denies
Recuse
Abstains
Excused Absence

Matt Berg, Treasurer
Benton County Water Conservancy Board

Date: 10/12/2006

Approves
Denies
Recuse
Abstains
Excused Absence

Final ROE/ROD Mailed to the Department of Ecology, Regional Office of Ecology, via tracked mail, and other interested parties on or before 10/19/2006.



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Darryll Olsen, Ph.D., Chairman
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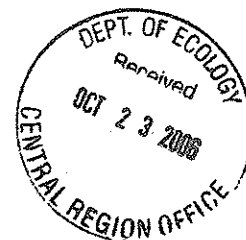
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John Jaksch, Ph.D., Vice Chairman
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BENTON COUNTY WATER CONSERVANCY BOARD

Application/Review for Change/Transfer

OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON

Report of Examination

☐ Surface Water ☒ Ground Water

DATE APPLICATION RECEIVED April 2006	WATER RIGHT DOCUMENT NUMBER CG4-23101C@1	WATER RIGHT PRIORITY DATE June 5, 1974	BOARD-ASSIGNED CHANGE APPLICATION NUMBER BENT-06-01-CG4- 23101C@1
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NAME Wiser Farms	(CITY) Kennewick	(STATE) WA	(ZIP CODE) 99352
ADDRESS (STREET) 22307 S. Cottonwood Dr.			

Changes Proposed: ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☐ Change point of diversion/withdrawal
☒ Other (Temporary, Trust, Interties, etc.) Added place of use for lot development

Applicant request additional place of use (adjacent lands) to establish residential housing units—no increase to units allowed under previous change request and modification order; no change to purpose or quantity of use, no change to points of diversion.

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

Change request is below SEPA threshold.

BACKGROUND AND DECISION SUMMARY

Existing Right

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
	1,200 gpm	Irrigation-554 Public Water Supply-91	Irrigation—Seasonal Use (all within NW1/4 of Section 15, as Allowed Under BCWCB 2002 Change Decision). Public Water Supply (Non-Irrigation)—Year-Round Use; for a Maximum of 316 Residential Lots (Based on ADD 257 gpd/ERU) TRIBUTARY OF (IF SURFACE WATER)				
SOURCE Groundwater (Lower Badger Canyon)							
AT A POINT LOCATED:							
PARCEL NO.		1/4	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
Well	Approx.	NW1/4	15	8N	28 EWM		Benton
1-1588-102-0000-001	Center of						
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							

All within:

Irrigation: NW1/4 of Section 15, T.8N, R.28 EWM.

Public Water Supply (no irrigation): All within That Portion of Section 15 Lying N. of Railroad Right-of-Way, T.8, R.28 EWM (Approximately 480 acres).

Proposed Use

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
	1,200 gpm	Irrigation-554 Public Water Supply-91	Irrigation—Seasonal Use (No Change to Existing Use—All within NW1/4 of Section 15, as Allowed Under BCWCB 2002 Change Decision). Public Water Supply (Non-Irrigation)—Year-Round Use; for a Maximum of 316 Residential Lots (Based on ADD 257 gpd/ERU) TRIBUTARY OF (IF SURFACE WATER)				
SOURCE							
Groundwater (Lower Badger Canyon)							
AT A POINT LOCATED:							
PARCEL NO.		¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
Well	Approx.	NW1/4	15	8N	28 EWM		Benton
1-1588-102-0000-001	Center of						
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED							
All within:							
Irrigation: NW1/4 of Section 15, T.8N, R.28 EWM.							
Public Water Supply (no irrigation): All within Sections 15 and 11 Lying North/Northwest of Railroad Right-of-Way, T.8, R.28 EWM.							
(Multiple parcel numbers on Section 15, refer to Assessors' Office records ; Section 11 parcel no. 1-1188-300-0005-005)							

Water Board Decision

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
	1,200 gpm	Irrigation-554; Public Water Supply-91	Irrigation—Seasonal Use (No Change to Existing Use—all within NW1/4 of Section 15, as Allowed Under BCWCB 2002 Change Decision). Public Water Supply (Non-Irrigation)—Year-Round Use; for a Maximum of 316 Residential Lots (Based on ADD 257 gpd/ERU) TRIBUTARY OF (IF SURFACE WATER)				
SOURCE							
Groundwater (Lower Badger Canyon)							
AT A POINT LOCATED:							
PARCEL NO.		¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
Well	Approx.	NW1/4	15	8N	28 EWM		Benton
1-1588-102-0000-001	Center of						

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED:

All within:

Irrigation: NW1/4 of Section 15, T.8N, R.28 EWM.

Public Water Supply (no irrigation): All within Sections 15 and 11 Lying North and West of Railroad Right-of-Way, T.8, R.28 EWM.

(Multiple parcel numbers on Section 15, refer to Assessors' Office records; Section 11 parcel no. 1-1188-300-0005-005)

DESCRIPTION OF PROPOSED WORKS

The existing certificate is being used to serve water supply needs for a small residential development that is under construction. The applicant, per an earlier BCWCB change and review by WADOE, is progressing with 316 residential lot units, with construction of about 190 units completed. The applicant's intent is to complete the 316 unit development by utilizing acquired lands adjacent to the existing place of use, placing 70 units on section 11 of the added place of use lands.

The requested change will allow for additional flexibility in the use of the water right water for meeting the existing irrigation and residential (public water supply) needs. The applicant is not expanding the currently authorized usage for public water supply; and there is no change to the existing irrigation portion of the water right. The existing point of withdrawal (well) will service the added place of use.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:

Immediately

COMPLETE PROJECT BY THIS DATE:

By July 1, 2008

COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:

By July 1, 2010

NOTE: The Water Board establishes the development schedule, as required under RCW 90.80.070, 90.80.080, and WAC 173-153-130. The schedule may be extended by WADOE if diligence is demonstrated in the completion of this project.

REPORT OF EXAMINATION

BACKGROUND

A change/transfer application for certificate CG4-23101C@1 was received and accepted by the Water Board in April 2006. This application requests use of adjacent lands for completion of a small residential development; no change to total (316) authorized residential units (public water supply), and no change to the existing irrigation portion of the certificate. The applicant seeks greater flexibility in the use of the water right.

The applicant's intent is to continue the use of CG4-23101C@1 at its existing place of use, with additional lands included for residential lot development. There is no expansion of the existing, allowed water use quantity or purpose.

Prior to the current review by the Water Board, this certificate was previously changed by the BCWCB in June 2002 to allow for residential development (public water supply). The water right development is tracking its original construction schedule.

Attributes of the water right as currently documented:

Name on certificate, claim, permit: Original certificate: Columbia Inland Corp. (Wiser Farms on previous 2002 change order).

Water right document number: CG4-23101C@1

As modified by certificate of change number: BENT-06-01-CG4-23101C@1

Priority date: June 5, 1974

Water quantities: Qi: 1,200 gpm Qa: 554 acre-ft. for seasonal irrigation (all within NW1/4 section 15) and 91 acre-ft for domestic (public supply—non-irrigation) year round use.

Source: Groundwater (Lower Badger Canyon)

Point of diversion/withdrawal: See above and attachments.

Purpose of use: Irrigation and Public Water Supply

Period of use: Irrigation is seasonal use; public water supply is year-round use.

Place of use: See above and attachments.

Existing provisions: See attached prior change/transfer ROE/ROD and WADOE modification order.

Tentative determination of the water right:

See Water Board's Decision Above.; water right is in certificate stage being used by the applicant.

History of water use:

The certificate is being used per the 2002 change/transfer authorization; both irrigation and public supply use are verified by the Water Board; the applicant has completed partial construction of the project; the applicant has provided the Water Board meter reading data on the use of the water right.

Previous changes:

The certificate was previously changed to include public water supply purpose of use in June 2002.

SEPA:

As noted above, the water right change request is under the authorized SEPA review threshold.

COMMENT AND PROTESTS

Public notification for the applicant's request was filed in the Tri-City Herald. A copy is provided in the Public Notice attachments. The WADOE/Water Board did not receive a protest notice, or comments, from a third party.

The application has been distributed to several state resources agencies, tribes, and interested parties. No comments have been received from these parties concerning the application.

Issues Raised by WADOE:

The Water Board has provided the WADOE CRO with the change/transfer application and public notice, and a Water Board representative has met directly with WADOE staff, and requested an explicit identification of any issues of concern related to the change request or the Water Board's preparation of the ROE/ROD.

No issues were raised by the WADOE staff.

Protests:

Date: None Received.

This was recognized by the board as a ☐ Protest ☐ Comment

Name/address of protestor/commenter:

Issue:

Board's analysis:

Other:

INVESTIGATION

The following information was obtained from a site inspection, technical reports and documents, research of department records, and discussions with the applicant and other interested parties.

Proposed project plans and specifications:

As noted above, the applicant will continue to use this water right to service public water supply and irrigation needs at the current and proposed place of use, with no change to the authorized water volumes. The proposed use will involve water withdrawal from an existing well, with associated mainline and distribution systems.

The applicant's intent is to continue the use of CG4-23101V@1 at its existing and proposed place of use, as described above.

A. Key Technical Issues—Water Right Review:

This investigation has included several issues:

Tentative Determination:

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings.

First, the water right applicant holds a valid water right certificate and change order in good standing, and it is on file with the WADOE. The Water Board confirms that the water right is being used subject to the certificate and change order provisions.

The certificate and change order are valid as stands, subject to subsequent change actions by the Water Board and any WADOE administrative changes affecting development.

Second, the applicant has verified via water metering data and BCWCB site inspections that the right is being put to beneficial use per their existing construction and development schedule.

Third, under the change request, the total amount of water withdrawal from the existing and proposed used (place of use) cannot exceed the amount within the certificated (with change order) water right. The change/transfer request must not exceed the existing water right limits; no enlargement of the water right is allowed.

The Water Board notes that this request requires no expansion of the water right, as designated under the existing certificate, with change order. The applicant is actively using the allowed water, taking into account development timing.

The Water Board has determined that the full amount of the said water right available for change/transfer is presented within the above "Board Decision" summary, and should be the amount not exceeded by the applicant within the proof of appropriation filing and within the final certificate issued by WADOE. The applicant's request for a change to add place of use is consistent with the existing water use, and is allowed under the water code and case law. The change involves an added place of use, with no change to purpose of use, or an enlarge of the quantity of use.

Hydrologic, and other technical investigations:

First, based on detailed technical review of the applicant's submittal, it is concluded that the requested change/transfer will withdrawal water from the same body of water (and management area) as that allowed under the existing water right. There is no change to the existing point of withdrawal.

Second, the added change cannot create impairment. The Water Board has reviewed with the applicant's technical information on potential impairment and concludes that impairment is not an issue for the added place of use.

Further, it is noted and concluded from existing WA State water law, WADOE water right data, the applicant's technical information, and recent discussions with WADOE hydrology staff, that:

1) Impairment means that other water right holders are unable to use their water rights (whole or in part), given reasonable pumping lift with the construction of qualifying diversion works.

2) For this immediate area, no record/affirmation of impairment has been noted by the Water Board or WADOE.

- 3) The Water Board has discussed with WADOE staff the proposed change/transfer proposal; and WADOE staff have not raised any impairment issues.
- 4) The Water Board has required the applicant to consider impairment issues for the applicant's change request, including consultations with the Water Board. There is no indication that the change action will impair other water rights.
- 5) Based on the public notice of this change request, the Water Board has received no impairment issue comments from other existing water right holders, including those who withdraw water from sites close to the applicant's existing well site.

The Water Board concludes that the proposed action will not create impairment to other water rights per the provisions and conditions established under the existing certificate/change order and the conditions provided within this ROE/ROD; impairment is not an issue for the specific action related to this water right change.

B. Water Right Adjudication Process:

Water right adjudication does not affect this application.

C. Verification of Existing Water Right:

As noted above, the existing water use retains a certificate of water right granted by the Washington State Dept. of Ecology, with a change granted by the Water Board, with WADOE modification order; applicant data and site inspections confirm authorized use of the water right.

The Water Board has reviewed the water right documentation, reviewed the applicant's technical information concerning the water right, is familiar with the existing water use and land operations, and has conducted its own review of the water right relative to change/transfer conditions as discussed above.

It is concluded that the water right is in good standing, and subject to the conditions contained within this ROE/ROD for change/transfer.

D. Field Examination:

The field examination was conducted by Dr. Darryll Olsen, Chairman, BCWCB, with on-site visits during the months of July, September, and October 2006. Further, the Water Board is familiar with this area having recently reviewed other related applications and toured the area with the applicant(s).

The field examination confirmed the information within the application request and technical information, which is more fully elaborated upon in this Report of Examination.

The field examination consisted of viewing the existing/proposed water use sites, existing pumping site(s), and the surrounding area. A visual examination of the site water use area was conducted, along with a review of the applicant's maps. In essence, the field investigations confirmed information provided by the applicant through personal communications and supporting application materials.

E. Technical Information, Investigations, or Reports Reviewed:

The Water Board has reviewed the applicant's WADOE file and records contained therein, including any reports/comments submitted by WADOE staff, and pertinent WADOE water right records.

The applicant has provided technical information, personal communications, and technical references requested by the Water Board, including data to verify the existing and proposed use areas; and the applicant has communicated extensively with individual Water Board members to answer specific questions about the change/transfer request. The Water Board has conducted a field examination to verify the information contained within the applicant's current water rights and supporting technical information. The Water Board has requested and received supplemental information from the applicant and has discussed future water usage needs with the applicant.

The Water Board has reviewed the standing of the water right, documentation provided by the water right holder concerning land holdings and management, and aerial photography for the existing and proposed water right place of use.

The Water Board has forwarded copies of the application change/transfer request and public notice to the state Dept. of Fish & Wildlife, the Dept. of Health, the tribes, and to all parties requesting such copies. No comments were received by these parties during the formal public comment period for the change/transfer application.

The Water Board has required and reviewed the applicant's SEPA compliance needs.

F. Associated Rights and Uses:

The subject certificate is being used by Wiser Farms.

The Water Board has identified nearby water rights adjacent to the existing and proposed place of use, as indicated within the WRATS database; and identified nearby wells, as indicated on the WADOE website. There are no directly associated water rights affected by the change request.

The applicant does have available water rights G4-24368C and G4-23100C for residential irrigation needs.

G. Review of Potential Impairment:

Because the proposed action will not increase the existing certificated water use (with change modifications), or increase the water amount put to allowed beneficial use, or likely affect other existing water rights (or applications for new water rights), no impairment is perceptible. The applicant's technical information has been reviewed on water use within the same body of water for management purposes and potential impairment.

The proposed change/transfer will be beneficial in the conservation and management of water resources from existing practices for the following reasons: 1) there will be no increase in withdrawal on an annual/seasonal basis after the change/transfer, compared to existing permitted withdrawals; and 2) better controls and monitoring on the quantity of water pumped will help ensure that the authorized quantity is not exceeded, as required under a metering and irrigation development plan.

The Water Board has published public notice of the proposed action and reviewed any potential technical issues concerning impairment.

Existing water rights located within the nearby area--within the same section and adjacent sections--were noted according to information contained within the WADOE WRATS data base system and visual inspection, and ongoing Water Board review within this area.

As noted above based on the applicant's technical information and the Water Board's review, it is concluded that no impairment would occur related to the water right change/transfer request.

The field investigation revealed that the applicant's request for change/transfer is consistent with existing land and water use practices within the immediate area, reflecting the development of and consistency with the Benton County Comprehensive Land Use Plan.

The change/transfer request is consistent with net beneficial use and return flow considerations contained in RCW 90.03.380 and other applicable statutes. The change will not increase water withdrawals or net depletions from the groundwater source. More specifically, the subject application for change is consistent with public policy objectives of the state to provide for efficient use of water resources, to encourage supply of new or expanding uses through change/transfer of existing water rights, and to provide greater operational control to water managers.

Given the fact that no increase in water withdrawal from the existing groundwater management source will occur relative to that permitted and allowed for beneficial use, there is no reason to expect any impairments to other water sources, consistent with the conditions and provisions provided under the existing water right modification order granted by the WADOE. Also, because the change/transfer proposed by the applicant does not affect withdrawals from new water sources or increase existing allowed net withdrawals/diversions from that currently permitted, the change/transfer request does not affect local conditions surrounding the status quo for water use, as permitted by WADOE.

This application decision has no impact on WADOE's existing water right decisions, the condition of local surface water or groundwater resources based on empirical data, or the priority for water rights between junior and senior water right holders within the local area. The Water Board does include conditions within this ROE to ensure that the public interest affecting water use is protected, and that they are consistent with actions that would be pursued by WADOE to avoid future or potential impairment problems or regulation actions.

H. Effect or Benefit to Public Interest:

A recent Washington State Supreme Court ruling has stated that "...a 'public interest' test is not a proper consideration when Ecology acts on a change application under RCW 90.03.380." PUD No. 1 of Pend Oreille County v. Dep't of Ecology, 70372-8 (2002). By extension, neither does the Water Board have authority to apply a public interest test when evaluating a change in water right request under RCW 90.03.380. But the Water Board's legal counsel has indicated that the above court case is in reference to surface water changes/transfers, and groundwater-serviced water right changes/transfers are subject to public interest consideration under the purview and scope of the groundwater code.

The Water Board concludes that the requested change/transfer is not contrary to the public interest governing water use. To the extent review of public interest is applicable, the Water Board finds that the application for change are consistent with public policy objectives of the state to provide for efficient use of water resources, to encourage supply of new or expanding uses through change/transfer of existing water rights, to provide greater operational control to water managers, and to ensure no impairment exists.

Because the proposed action will not increase the existing certificated water use, or increase the water put to actual beneficial use, or result in a measurable impact on other existing water rights or applications for new water rights, it does not change the existing status quo for water use impacts. Thus, no impairment is perceived, because of the change/transfer requested in the application. Water use is provided consistent with statutory requirements for beneficial use.

The proposed action does provide for a continuation of the existing beneficial use as stated within the permit of water right, increasing the economic benefits to the state and local area by allowing for continued use and development of irrigated lands. The development is taking place in the land-use management area of Benton County.

This action is consistent with the intent of RCW 90.03.380, 90.44.100, and 90.80 (amended May 10, 2001) and other applicable statutes; and it is consistent with Benton County's Comprehensive Land-Use Plan. No impairment is consistent with the public interest; all pertinent water right issues are addressed above; conditions are recommended within this ROE to further protect the public interest consistent with state water law.

The application for change/transfer is consistent with the public interest requirements for beneficial water use, and consistent with the procedural, technical, and legal review requirements by the state.

I. Consideration of Pending Applications:

The applicant's request will not affect the priority for action on pending new water rights or change/transfer applications filed with the Washington State Department of Ecology, for Benton County. Existing applications for Benton County were noted (WADOE data base); and no infringement on priority for action for these applications is perceived by (WADOE or the Water Board).

This application review also is consistent with legislative changes made in 2001 affecting the processing of change/transfer applications by the WADOE, as well as the amendments made to RCW 90.03.380.

Public notice has been provided for requesting all water right holders within the Benton County to submit existing or new water right change/transfer applications to the Benton County Water Board—or the WADOE. Applications received by the WADOE or Water Board are first reviewed for accuracy, completeness, and purpose to ensure they fall within the purview of the agency's and Board's jurisdiction. Those that are found wanting are referred back to the applicant for re-submittal or withdrawal. The remaining ones are acted on by a first-come, first-serve basis, taking into account received application's priority date and the technical/legal review requirements thereof.

FINDINGS AND CONCLUSIONS

1. The certificate of water right, with 2002 change order, and existing development and beneficial use are verified.
2. The proposed change/transfer will result in no increase in the annual quantity of water authorized and is consistent with the requirements of RCW 90.03.380 and the groundwater code. The change/transfer request will not increase the certificated water right, with change order; the change/transfer will not increase allowed consumptive use from the designated sources.
3. There will be no increase in water withdrawal on an annual or seasonal basis. In addition, continued monitoring of the quantity of water pumped will help ensure that permitted water withdrawals are not exceeded, for the changes requested.
4. The Water Board has determined that impairment is not an issue affecting this change request; there is no change to point(s) of withdrawal, all within the same body of water for management purposes.
5. Public notice has been provided for the proposed action, and any public concerns have been reviewed by the Water Board. Public notice and application submittal has been forwarded to several state resource agencies/tribes/interested parties for comment; the agencies have provided no direct comments to the application.
6. The applicant has complied with SEPA review.
7. The proposed action creates no perceived detrimental impacts or impairments to other water right holders or permit applicants; adequate data and information exists to make this determination with confidence.
8. No protests have been made by third parties on this application.

9. The proposed action is consistent with the intent of RCW 90.03.380, 90.44.100, and 90.80 (as amended May 10, 2001) and recent case reviews by the Washington State Supreme Court.
10. The proposed action supports the public interest concerned with the direct use of water rights, is consistent with allowed beneficial uses, and is consistent with local area economic development needs and land uses.
11. The Water Board has provided for specific conditions and provisions affecting the use of the water right, as identified below.

RECOMMENDED PROVISIONS

A. Provisions:

The applicant's water right change for add place of use is conditioned by the following provisions:

1. The authorized quantity and purpose of use, and place of use for the water right is designated in the summary table above (under Water Board Decision).
2. The point of withdrawal is designated in the summary table above (under Water Board Decision).
3. Use of water under this authorization shall be contingent upon the water right holder's utilization of up-to-date water conservation practices, taking into account cost-effectiveness for operations and economic viability.
4. The existing change and final certificate for CG4-23101V@1 shall not exceed 1,200 gpm, 554 acre-ft., for seasonal irrigation (all within NW1/4 of Section 15), and 91 acre-ft for year-round public water supply (for a maximum of 316 residential lots).
5. By July 1, 2008, the applicant will notify the Water Resources Program, Central Region Office, WADOE, that project construction is completed, unless further extended for good cause.
6. Proof of appropriation (for actual beneficial use of water) is due to the Water Resources Program, Central Region Office, WADOE by July 1, 2010, unless further extended for good cause.
7. The WADOE shall undertake a proof inspection to certify actual development of the water right amended within this ROE.
8. The applicant will provide the WADOE with a metering plan, for the existing and added place of use, prior to water use within the additional place of use, consistent with the provisions of this change decisions and existing change decisions and modification orders.
9. An approved measuring device(s) shall be installed and maintained for the sources (all points of withdrawal) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use," Chapter 173-173 WAC.

Water use data shall be recorded weekly and shall be submitted annually to Ecology by January 31st of each calendar year typically.

10. The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements.

Installation, operation and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements."

11. At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, weekly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting.

12. Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

13. Department of Ecology personnel, upon presentation of proper credentials and prior notification, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.

B. Mitigation Requirements:

None.

DECISION

Approvals:

The Benton County Water Conservancy Board hereby APPROVES the water right change/transfer described within this record of examination and record of decision, and submits this certificate for conditional approval to the Director of the Washington State Department of Ecology. If the Director takes no action within forty-five days of receipt of this ROE/ROD, then the Water Board's decision, as written, is final.

Approved Unanimously by the BCWCB
Kennewick, Washington
This 12th day of October 2006

Approved and Signed on Behalf of the Water Board By:

Signed



Darryll Olsen, Ph.D., Chairman
Benton County Water Conservancy Board

Date Mailed to WADOE Director: on or before 10/19/2006

For attachments not included or for more information please contact:

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